

IN THE U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ROBERT WATJEN, ET AL.,
PLAINTIFFS,
V.
PENN CENTRAL,
DEFENDANT.

CASE NO.: 69-675

MICHAEL J. KNAPIK, ET AL.,
PLAINTIFFS,
V.
PENN CENTRAL,
DEFENDANT.

CASE NO.: 69-722

DAVID C. BUNDY, ET AL.,
PLAINTIFFS,
V.
PENN CENTRAL,
DEFENDANT.

CASE NO.: 69-947

G. V. SOPHNER, ET AL.,
PLAINTIFFS,
V.
PENN CENTRAL,
DEFENDANT.

CASE NO.: 74-914

JUDGE SOLOMON OLIVER, JR.

PLAINTIFFS' MOTION TO REINSTATE
AND CONFIRM ARBITRATION AWARD

The Plaintiffs' respectfully move this Court to enter an Order confirming the Award of the Arbitration Panel dated July 30, 2009 [Exhibit A] as upheld in the Decision of the Surface Transportation Board (hereinafter the "STB") dated January 6, 2011 [Exhibit B] in its entirety and with the award of interest as indicated by the STB.

Plaintiffs in this matter are former railroad workers who filed lawsuits against the Defendants for wage guarantees and benefits to which they were entitled under the 1964 Merger Protection Agreement implementing the terms of consolidation between the New York Central and Pennsylvania Railroads. On or about 1979 the Defendants petitioned the Court to send the cases to binding arbitration. The Plaintiffs opposed that Motion. The Court ordered the parties to binding arbitration in 1979. The instant arbitration occurred in December of 2007. The Arbitration Panel issued its decision in favor of the Plaintiffs in July 2009. One day later the Plaintiffs filed a Motion to Confirm that Award. On August 19, 2009 the Defendants appealed the Arbitration Award to the STB and argued that the District Court did not have jurisdiction to confirm the Arbitration Award until the appeal of the Award was concluded. This Court agreed and ordered the parties to "notify this Court at the conclusion of the STB appeal and/or the appellate process."

On or about January 6, 2011 the STB affirmed the Arbitration Award to Plaintiffs. Pursuant to 28 U.S.C. §2344, Defendants had sixty days to appeal the STB Decision to the Circuit Court. The appeal period has expired and the Defendants have chosen not to exercise their appellate rights. Accordingly the Plaintiffs move this Court to reinstate Plaintiffs' prior Motion to Confirm Arbitration Award and to confirm and reduce to judgment the Arbitration Award as indicated in the Proposed Order attached hereto and incorporated herein.

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Now pending before this Court is the Plaintiffs' Motion to Reinstate and Confirm Arbitration Award in these consolidated cases issued on July 30, 2009, incorporated and attached hereto as Exhibit A, as affirmed by the Surface Transportation Board in its Decision dated January 6, 2011, Pennsylvania Railroad Company – Merger – New York Central Railroad Company Docket No. FD 21989 incorporated and attached hereto as Exhibit B

Per the terms of this Court's prior Order of March 10, 2010, this matter is now reinstated, the appellate review process having concluded by the Defendants' waiver of their appeal to the

Circuit Court of the Decision of the Surface Transportation Board. This Court adopts and confirms in their entirety the Arbitration Award issued in the matter pursuant to the Federal Arbitration Act 9 U.S.C. §9 as modified by the Surface Transportation Board with the following addition. The Arbitration Panel ordered the claimants to update the prejudgment interest award from December 31, 2007 to the date of the award. *See* Award Exhibit A at 177. The Surface Transportation Board further ordered that the Plaintiffs are entitled to interest for the time elapsed since the prior interest calculation. *See* Decision Exhibit B at 25.

The Plaintiffs have supplied those additional interest figures based on the prime rate compounded quarterly, the method used by the Panel and approved by the Surface Transportation Board.

Accordingly, the following awards for each claimant are confirmed into judgment as follows:

Knapik Claimants 69-722	Personal Representatives	Displacement Allowance (with pensions)	Prejudgment Interest Prime Rate (thru 03/31/2011)	Total Judgment
Acre, Jack	Berk, Gerald	10,556	334,855	345,411
Benko, Edward	Berk, Gerald	123,110	2,648,437	2,771,547
Day, Ken	Day, Ken Jr.	48,267	1,233,957	1,282,224
Doran, Harvey	Berk, Gerald	12,210	362,701	374,911
Gastony, Joseph	Berk, Gerald	16,632	437,305	453,937
Gentile, George	Berk, Gerald	7,562	232,988	240,550
Norris, George	Polson, Catherine	50,156	129,2696	1,342,852
Steimle, Christ	Steimle, Christ III	3,540	107,642	111,182
Tomczak, Clarence	Berk, Gerald	52,667	130,7978	1,360,645
Uher, Frank	Gath, Judith	23,560	698,467	722,027

Sophner Claimants	Personal Representatives	Displacement Allowance (with pensions)	Prejudgment Interest Prime Rate (thru 03/31/2011)	Total Judgment
74-914				
Bilinsky, William	Bilinsky, Theresa	2,293	55,706	57,999
Crtalic, Joseph	Crtalic, Judy	2,959	69974	72,933
Foecking, Paul	Berk, Gerald	13,767	207,721	221,488
Gallagher, John	N/A	3,053	91,999	95,052
Janke, Gus	Berk, Gerald	4,146	109,345	113,491
Jarabeck, Joseph	Tomsik, Donald	3,557	40,272	43,829
Kochenderfer, E.W.	Rossman, Susan	6,784	164,544	171,328
McLaughlin, Patrick	Violini, John Jr.	34,433	874,132	908,565
McNeely, Robert	Donna L. Quellos	5,146	113,618	118,764
Novotny, Andrew	N/A	2,195	54,086	56,281
Opalk, Martin	Campbell, Donna	9,469	241,867	251,336
Pentz, L. S.	Pentz-Kirchener, Ann Marie	5,397	125,340	130,737
Schreiner, Robert	Rich, Linda	20,815	541,796	562,611
Scuba, Paul	Scuba, Paul W.	12,892	323,751	336,643
Sophner, George	Berk, Gerald	16,738	451,883	468,621
Sowinski, Peter	Oleksak, Donna	9,100	219,814	228,914

Watjen Claimants 69-675	Personal Representative	Separation Allowance	Prejudgment Interest Prime Rate (thru 03/31/2011)	Total Judgment
Franz, Phillip	N/A	10,473	305,248	315,721
O'Neil, Thomas	N/A	10,406	301,275	311,681
Watjen, Robert	Watjen, Judith	10,950	317,012	327,962
Wilger, Ana Mae	Stone, Joyce W.	10,435	310,285	320,720
Bundy Claimants 69-947		Separation Allowance	Prejudgment Interest Prime Rate (thru 03/2011)	Total Judgment
Bundy, David	Berk, Gerald	10,793	312,460	323,253
Feldscher, James	Berk, Gerald	10,759	307,264	318,023

IT IS SO ORDERED.

JUDGE SOLOMON OLIVER

Respectfully submitted,

/s/ Carla M. Tricarichi
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CERTIFICATE OF SERVICE

A copy of the foregoing was sent by regular U.S. Mail and electronic mail to:

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on this 20th day of April, 2011.

/s/ Carla M. Tricarichi
Carla M. Tricarichi
Attorney for Plaintiffs